

August 28, 2003

A Regular Meeting of the Zoning Board of Appeals of the Town of Lancaster, Erie County, New York, was held at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York, on the 28<sup>th</sup> day of August 2003, at 8:00 P.M., and there were

PRESENT:           ANTHONY ESPOSITO, MEMBER  
                      RICHARD QUINN, MEMBER  
                      ARLIE SCHWAN, MEMBER  
                      ROBERT THILL, MEMBER  
                      JEFFREY LEHRBACH, CHAIRMAN

ABSENT:           JOSEPH GIGLIA, MEMBER  
                      WILLIAM MARYNIEWSKI, MEMBER

ALSO PRESENT:   MARY ANN PERRELLO, DEPUTY TOWN CLERK  
                      RICHARD SHERWOOD, TOWN ATTORNEY  
                      JEFFREY H. SIMME, BUILDING INSPECTOR

The Affidavits of Publication and Posting of this Public Hearing are on file and a copy of the Legal Notice has been posted

**PETITION OF JOHN MIELKO:**

THE 1st CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the petition of John Mielko, 60 Summit Street, Lancaster, New York 14086 for two [2] variances for the purpose of constructing a detached garage on premises owned by the petitioner at 60 Summit Street, Lancaster, New York, to wit:

1. A variance from the requirements of Chapter 50, Zoning, Section 10.D.(4) of the Code of the Town of Lancaster. The area of the proposed accessory structure is one thousand six hundred eighty [1,680] square feet.

Chapter 50, Zoning, Section 10.D.(4) of the Code of the Town of Lancaster limits the area of accessory structures to seven hundred fifty [750] square feet. The petitioner, therefore, requests a variance of nine hundred and thirty [930] square feet.

2. A variance from the requirements of Chapter 50, Zoning, Section 10.D.(2) of the Code of the Town of Lancaster. The height of the proposed accessory structure is nineteen [19] feet.

Chapter 50, Zoning, Section 10.D.(2) of the Code of the Town of Lancaster limits the height of accessory structures to sixteen [16] feet. The petitioner, therefore, requests a variance of three [3] feet.

The Deputy Town Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Planning of the time and place of this public hearing.

Copy of a letter notifying Robert Kucewicz, Depew Village Clerk of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

John Mielko, the petitioner

Proponent

IN THE MATTER OF THE PETITION OF JOHN MIELKO

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. LEHRBACH, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. ESPOSITO  
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of John Mielko and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 28th day of August 2003, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicant is the present owner of the premises in question.

That the property for which the applicant is petitioning is within a Residential District 2, (R2) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Residential District 2, (R2) as specified in Chapter 50 of the Code of the Town of Lancaster.

That the Erie County Division of Planning commented on the proposed zoning action as follows:

"No recommendation; proposed action has been reviewed and determined to be of local concern."

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the proposed area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT**

**RESOLVED** that based upon these findings, the relief sought be and is hereby **GRANTED**-subject to the following condition which in the opinion of this board is an appropriate condition to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- That no commercial enterprise, other than those permitted by Code of the Town of Lancaster, be conducted on the premises.
- That the proposed structure be limited to 1200 square feet.
- That the proposed structure be limited to a height of 18 feet.
- That the proposed structure be placed 15' off back westerly property line from paper street known as Belmont Avenue.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ESPOSITO	VOTED YES
MR. GIGLIA	WAS ABSENT
MR. MARYNIEWSKI	WAS ABSENT
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED NO
MR. LEHRBACH	VOTED YES

The resolution granting the variances was thereupon **ADOPTED**.

August 28, 2003

**PETITION OF DPC, INC. C/O BELLA VISTA GROUP:**

THE 2nd CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the petition of DPC, Inc., c/o Bella Vista Group, 6495 Transit Road, Bowmansville, New York 14026 for one [1] variance for the purpose of erecting a ground sign on premises owned by the applicant at 6509 Transit Road, Bowmansville, (Town of Lancaster), New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 30 F.(2)(c)[2][a] of the Code of the Town of Lancaster to permit a sign height of nine [9] feet over finished grade.

Chapter 50, Zoning Section 30F.(2)(c)[2][a] of the Code of the Town of Lancaster limits the maximum height of a ground sign to four [4] feet above finished grade. The petitioner, therefore, requests a five [5] foot ground sign height variance.

**The Deputy Town Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Planning of the time and place of this public hearing.

Copy of a letter notifying Mary Holtz, Cheektowaga Town Clerk of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Joseph Cipolla, the petitioner

Proponent

**IN THE MATTER OF THE PETITION OF DPC, INC., C/O BELLA VISTA GROUP**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. ESPOSITO, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. QUINN  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of DPC, Inc., c/o Bella Vista Group and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 28th day of August 2003, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicant is the present owner of the premises in question.

That the property for which the applicant is petitioning is within a Commercial and Motor Service District, (CMS) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Commercial and Motor Service District, (CMS) as specified in Chapter 50 of the Code of the Town of Lancaster.

That the Erie County Division of Planning commented on the proposed zoning action as follows:

"No recommendation; proposed action has been reviewed and determined to be of local concern."

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT  
RESOLVED** that based upon these findings, the relief sought be and is hereby  
**GRANTED.**

The question of the adoption of the foregoing resolution was duly put to a vote on  
roll call which resulted as follows:

MR. ESPOSITO	VOTED YES
MR. GIGLIA	WAS ABSENT
MR. MARYNIEWSKI	WAS ABSENT
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED.**

August 28, 2003

**PETITION OF KRISTEN & JAMIE UHL:**

THE 3rd CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the petition of Kristen and Jamie Uhl, 415 Central Avenue, Lancaster, New York 14086 for one [1] variance for the purpose of erecting a six [6] foot high fence in a required open space area on premises owned by the petitioner at 415 Central Avenue, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Central Avenue with an exterior side yard [considered a front yard equivalent] fronting on Ronald Drive. The petitioner proposes to erect a six [6] foot high fence within the required open space area of the exterior side yard fronting on Ronald Drive.

Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster limits the maximum height of a fence or wall extending into a front yard or an exterior side yard [considered a front yard equivalent] to three [3] feet in height. The petitioner, therefore, requests a three [3] foot fence height variance.

**The Deputy Town Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Kristen & Jamie Uhl, the petitioners

Proponents



**IN THE MATTER OF THE PETITION OF KRISTEN & JAMIE UHL**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. THILL, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. SCHWAN  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Kristen & Jamie Uhl and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 28th day of August 2003, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicants are the present owners of the premises in question.

That the property for which the applicants are petitioning is within a Residential District 2, (R2) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Residential District 2, (R2) as specified in Chapter 50 of the Code of the Town of Lancaster.

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicants cannot be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicants if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT**

**RESOLVED** that based upon these findings, the relief sought be and is hereby **GRANTED**-subject to the following conditions which in the opinion of this board are appropriate conditions to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- That the northeast and northwest corner of fence be angled to the extent of one section of fence.
- That the fence be placed eight (8) feet from the north exterior property line.
- That if the petitioner purchase a vinyl fence, the maximum fence height will be five (5) feet. If the petitioner purchases a cedar fence, the maximum fence height will be six (6) feet, with a concave to five feet six inches (5'-6").

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ESPOSITO	VOTED YES
MR. GIGLIA	WAS ABSENT
MR. MARYNIEWSKI	WAS ABSENT
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED**.

August 28, 2003

**PETITION OF THOMAS J. & GALE M. GERVASIO:**

THE 4th CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the petition of Thomas J. and Gale M. Gervasio, 5220 William Street, Lancaster, New York 14086 for two [2] variances for the purpose of permitting a fence and a shed to remain as positioned on property owned by the petitioners at 5220 William Street, Lancaster, New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 17A.(2) and (3) of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on William Street with an exterior side yard [considered a front yard equivalent] fronting on Autumn Park. The petitioners have constructed a storage shed, the location of which has resulted in a fourteen [14] foot set back from Autumn Park.

Chapter 50, Zoning, Section 17A.(2) and (3) of the Code of the Town of Lancaster requires a thirty five 35 foot set back on Autumn Park. The petitioners, therefore, request a twenty one [21] foot front yard set back variance.

- B. A variance from the requirements of Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster. The petitioners have partially erected a five [5] foot high fence within the required open space area of the exterior side yard fronting on Autumn Park.

Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster limits the maximum height of a fence or wall extending into a front yard or an exterior side yard [considered a front yard equivalent] to three [3] feet in height. The petitioners, therefore request a two [2] foot fence height variance.

**The Deputy Town Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Thomas & Gale Gervasio, the petitioners

Proponents

Walter Ferry  
309 Schwartz Road  
Lancaster, New York 14086

Opponent

**IN THE MATTER OF THE PETITION OF THOMAS J. & GALE M. GERVASIO**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. LEHRBACH, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. QUINN  
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Thomas J. & Gale M. Gervasio and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 28th day of August 2003, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicants are the present owners of the premises in question.

That the property for which the applicants are petitioning is within a Residential District 1, (R1) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Residential District 1, (R1) as specified in Chapter 50 of the Code of the Town of Lancaster.

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicants cannot be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought.

That the requested area variance relief is substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicants if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT**

**RESOLVED** that based upon these findings, the relief sought be and is hereby **GRANTED**-subject to the following conditions which in the opinion of this board are appropriate conditions to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- That the northwest and southwest corners of fence be angled to the extent of one section of fence.
- That the fence be placed eight (8) feet off sidewalk.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ESPOSITO	VOTED YES
MR. GIGLIA	WAS ABSENT
MR. MARYNIEWSKI	WAS ABSENT
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variances was thereupon **ADOPTED**.

August 28, 2003

**PETITION OF JEFFREY DRESSLER:**

THE 5th CASE TO BE HEARD BY THE Zoning Board of Appeals was that of the petition of Jeffrey Dressler, 47 Village View, Lancaster, New York 14086 for one [1] variance for the purpose of erecting a four [4] foot high fence in a required open space area on premises owned by the petitioner at 47 Village View, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Village View with an exterior side yard [considered a front yard equivalent] fronting on Park Walk. The petitioner proposes to erect a four [4] foot high fence within the required open space area of the exterior side yard fronting on Park Walk.

Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster limits the maximum height of a fence or wall extending into a front yard or an exterior side yard [considered a front yard equivalent] to three [3] feet in height. The petitioner, therefore, requests a one [1] foot fence height variance.

**The Deputy Town Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Jeffrey Dressler, the petitioner

Proponent

Keith Chodkowski

Proponent

49 Village View

Lancaster, New York 14086

**IN THE MATTER OF THE PETITION OF JEFFREY DRESSLER**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. THILL, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. LEHRBACH  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Jeffrey Dressler and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 28th day of August 2003, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That the applicant is the present owner of the premises in question.

That the property for which the applicant is petitioning is within a Residential District 1, (R1) as shown on the Zoning Map of the Town of Lancaster.

That the use sought is a permitted use appearing in the Residential District 1, (R1) as specified in Chapter 50 of the Code of the Town of Lancaster.

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

That such fence will not unduly shut out light or air to adjoining properties.

That such fence will not create a fire hazard by reason of its construction or location.

**NOW, THEREFORE, BE IT**

**RESOLVED** that based upon these findings, the relief sought be and is hereby **GRANTED**-subject to the following conditions which in the opinion of this board are appropriate conditions to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- That the fence be placed seven (7) feet from the south property line of the petitioner.
- That the southeast and southwest corner of the fence be angled to the extent of one section of fence, subject to modification by the Building Inspector.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ESPOSITO	VOTED YES
MR. GIGLIA	WAS ABSENT
MR. MARYNIEWSKI	WAS ABSENT
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED**.

August 28, 2003



ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting was  
adjourned at 9:40 P.M.

Signed Mary Ann Perrello  
Mary Ann Perrello, Deputy Town Clerk  
Dated: August 28, 2003